

Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert R. Corbin

July 16, 1990

Mr. Gary L. Lassen  
Heron, Burchette, Ruckert & Rothwell  
Suite 100  
2600 North Central Avenue  
Phoenix, Arizona 85004

Re: 190-065 (R89-153)

Dear Mr. Lassen:

Pursuant to A.R.S. § 15-253(B), we have reviewed your opinion letters to Dr. Gerald E. George, Superintendent of Glendale Union High School District, concerning the formation of unified school districts, and we concur with the conclusions therein.<sup>1/</sup>

We have also reviewed your opinion on a district's authority to divide school district precincts so that they may be coterminous with municipal precincts. We concur with your conclusion that generally a school district lacks authority to draw school district precincts so that they are coterminous with municipal precincts. However, we revise your opinion to add statutory provisions that might result in school districts having a common polling place with a municipal polling place regardless of whether the school district precinct boundaries are coterminous with municipal precinct boundaries.

A.R.S. § 15-403(E), which requires school district election precincts to have the same boundaries as county precincts, provides that the school district designate one polling place within each of its precincts except that a union high school district may divide a county precinct along the boundaries of

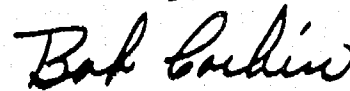
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<sup>1/</sup>We concur with your conclusion that a new unified school district must be formed pursuant to A.R.S. § 15-458, revising our opinion in Ariz. Att'y Gen. Op. 185-118 that such a district must be formed pursuant to A.R.S. § 15-459.

Mr. Gary L. Lassen  
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common school districts within the boundaries of the union high school district, and establish polling places within each common school district. School district election precincts may be consolidated as necessary for special elections with one polling place designated for that consolidated election precinct. In addition, a polling place may be designated in an adjacent precinct inside or outside school district boundaries if the governing board finds that no suitable polling place is available within a school district precinct. Any of these methods could result in a school district polling place in the same location as a municipal polling place even if their precinct boundaries are not identical.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bob Corbin".

BOB CORBIN  
Attorney General

BC:LSP:lpf

*Nina Pres*

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January 31, 1990

Dr. Gerald E. George  
Superintendent  
Glendale Union High School District #205  
7650 N. 43rd Avenue  
Glendale, Arizona 85301

Re: Opinion Addendum (R89-153)

Dear Dr. George:

You have asked for an additional point of clarification that was not specifically addressed in my opinion to you dated December 12, 1989. Specifically, you asked when an election for unification of school districts into a single unified school district could occur. Elections regarding unification of school districts contained within Title 15 generally refer to the provisions referenced A.R.S. § 15-459. That statute provides in pertinent part as follows:

F. The County School Superintendent shall hold the election during the fiscal year preceding the fiscal year consolidation as proposed to be effective on the same date as the general election or on the second Tuesday in February. The election shall be held in the manner and electors shall possess qualifications as prescribed for the election of Governing Board members.

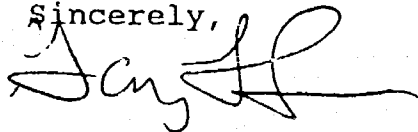
✓ Therefore, it is our conclusion that the elections referenced in my opinion dated December 12, 1989 may either occur on the second Tuesday in February or on the date of the general election in the fiscal year proceeding the fiscal year

Dr. Gerald E. George  
January 31, 1990  
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consolidation as proposed to be effective. I am forwarding a copy of this addendum to my earlier opinion to the Attorney General for review.

If you have any questions regarding the same, please do not hesitate to contact me.

Sincerely,



Gary L. Lassen

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Enclosures

c: The Honorable Robert Corbin  
Linda Pavol, Assistant Attorney General

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December 12, 1989

Dr. Gerald E. George  
Superintendent  
Glendale Union High School District #205  
7650 N. 43rd Avenue  
Glendale, Arizona 85301

Dear Dr. George:

You have asked what the procedures are to be followed in forming either a unified district among two common school districts and a union high school district and/or a subdivision of the union high school district into two unified districts, one with boundaries coterminous with each of the common school districts. You have also asked how elections could take place to form such a unified district or districts.

The applicable statutes are A.R.S. §§ 15-448, 15-458, 15-459, and 15-467. A.R.S. § 15-448 provides the mechanism for the formation of a unified school district between a common school district and a high school district with coterminous boundaries. This is accomplished by resolutions approved by the governing boards of the school districts affected. There is no statutory provision for petition by the electors to form a unified school district between a common school district and a high school district with coterminous boundaries. Further, there is no provision contained in the statute for the formation of a unified school district between a high school district and two common school districts. Therefore, in order to form a unified school district by combining two common school districts and a union high school district, the common school districts would first have to form a single common school district as provided in A.R.S. § 15-459. That statute provides:

"On the request of the governing board of two or more school districts in the same county or in adjacent counties, or in receipt of petitions bearing the signatures of 10% or more of the qualified electors residing in each of two or more school districts in the same county or in adjacent counties to

consolidate the school districts the county school superintendent shall call an election to determine the question on consolidation."

Consolidation may include . . .

"(2) If all the common school districts within the boundaries of an existing union high school district should desire to consolidate into one common school district."

A.R.S. § 15-459 contains no provision that allows for the direct formation of a unified district among two common school districts and a single union high school district.<sup>1</sup>

The second question you asked concerned the formation of a new district by subdivision of an existing district. A.R.S. § 15-458 addresses that situation. In the case of an existing union high school district, the county school superintendent shall call an election only on the request of the governing boards of the union high school district and each of the common school districts comprising the union high school district or on receipt of petitions bearing the signatures of 10% or more of the qualified electors in each of the common school districts. There are additional provision in A.R.S. § 15-458 that require the State Board of Education to determine if the real property valuation per student count is sufficient to support the school district in a manner comparable to other school districts of similar size and that a sufficient number of pupils will exist in each of the school districts to insure the education programs and services will be of a similar or better quality after the subdivision. It is uncertain as to what that determination would entail. The election to subdivide would be held under the same provisions as the elections to consolidate as provided in A.R.S. § 15-459.<sup>2</sup>

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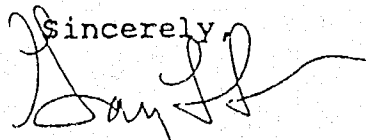
<sup>1</sup> A.R.S. § 15-912 provides for consolidation assistance for a merger of common school districts. There is no statutory authorization for consolidation assistance when one of the school districts which merge is a union high school district contained in the statute.

<sup>2</sup> A.R.S. § 15-950 provides for the computation of the Revenue Control Limit for new school districts budgets. The status of existing override authorization after consolidation is uncertain as it is not statutorily addressed.

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The county superintendent, after receipt of the petitions, has ten days to call the election and notice of the election has to be posted in not less than three public places in each of the school districts proposed to be consolidated (or subdivided, at least 25 days before the election). A report of the proposed boundary changes prepared by the county school superintendent and the governing board shall be distributed in a manner similar to those required for school district override elections under A.R.S. § 15-481. The county school superintendent shall hold the election during the fiscal year preceding the fiscal year consolidation is proposed to be effective on the same date as the general election or on the second Tuesday in February. ✓ A.R.S. § 15-430 provides for the appointment of governing boards by the county school superintendent consisting of up to seven members of the consolidated district formed among the members of the governing boards as they would have been constituted on that date if the consolidation had not been approved. The county school superintendent shall take into consideration the population of the previous existing school districts. The members appointed shall serve until January 1 following the next general election and five members shall be elected at the next general election.

A.R.S. § 15-467 provides for the dissolution of a union high school district and the formation of a high school district if the common school districts consolidate. In any of the changes referenced above that entails an election, the U.S. Justice Department will carefully scrutinize the process to determine complaint with the Voting Rights Act of 1965, 42 U.S.C. §1973. This could be a very significant obstacle toward any subdivision that could arguably negatively impact minority representation. A copy of this opinion is being sent to the Attorney General for his review pursuant to A.R.S. §15-253.

Sincerely,  
  
Gary L. Lassen

psg.131730.1.GLL

c: Honorable Robert Corbin  
Linda Pavol, Assistant Attorney General  
Nina Preston, Assistant Attorney General  
Charles Herf, Attorney at Law